

IN THE MATTER OF United States Patent Application No. _____

Applicant(s): VANDENBORRE, Hugo Jan Baptist et al.
Title: FRAME FOR ELECTROLYSER MODULE AND ELECTROLYSER
MODULE AND ELECTROLYSER INCORPORATING SAME
Priority Date: 30 October 2003
Our Ref.: 00650-2114

A F F I D A V I T

I, MATTHEW MARQUARDT, patent attorney, of the City of Toronto, in the Province of Ontario, Canada MAKE OATH AND SAY AS FOLLOWS:

1. I am an associate patent attorney at Torys LLP ("Torys"), counsel for the Applicant, and have been assisting with the handling of the above noted matter.
2. I am a United States citizen and attorney (member of the Bar of the State of Washington since 1995, Bar No. 25371).
3. I am also a patent attorney registered before the United States Patent and Trademark Office (registered since 1997; registration no. 40,997) under § 10.6 and § 10.7 of Title 37 of the United States Code of Federal Regulations for Patents, Trademarks and Copyrights, attached to this Affidavit as Exhibit "A".
4. Consequently, I am authorized to represent and act on behalf of United States residents and/or nationals before the United States Patent Office. As such, I am authorized to be appointed as agent in connection with the above-referenced application.

SWORN BEFORE ME
at the City of Toronto,
in the Province of Ontario,
this 28th day of April, 2006.

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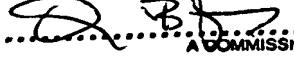


MATTHEW J. MARQUARDT



A Commissioner, etc.

This is Exhibit A referred to in the
affidavit of NATHAN S. MARSHAL
sworn before me, this 28th
day of April 2006.


D. B.
A COMMISSIONER, ETC.

§ 10.4 Committee on Discipline.

(a) The Commissioner shall appoint a Committee on Discipline. The Committee on Discipline shall consist of at least three employees of the Office, none of whom reports directly or indirectly to the Director or the Solicitor. Each member of the Committee on Discipline shall be a member in good standing of the bar of a State.

(b) The Committee on Discipline shall meet at the request of the Director and after reviewing evidence presented by the Director shall, by majority vote, determine whether there is probable cause to bring charges under § 10.132 against a practitioner. When charges are brought against a practitioner, no member of the Committee on Discipline, employee under the direction of the Director, or associate solicitor or assistant solicitor in the Office of Solicitor shall participate in rendering a decision on the charges.

(c) No discovery shall be authorized of, and no member of the Committee on Discipline shall be required to testify about, deliberations of the Committee on Discipline.

[Added 50 FR 5173, Feb. 6, 1985, effective Mar. 8, 1985]

INDIVIDUALS ENTITLED TO PRACTICE BEFORE THE PATENT AND TRADEMARK OFFICE

§ 10.5 Register of attorneys and agents in patent cases.

A register of attorneys and agents is kept in the Office on which are entered the names of all individuals recognized as entitled to represent applicants before the Office in the preparation and prosecution of applications for patent. Registration in the Office under the provisions of this part shall only entitle the individuals registered to practice before the Office in patent cases.

[Added 50 FR 5173, Feb. 6, 1985, effective Mar. 8, 1985]

§ 10.6 Registration of attorneys and agents.

(a) *Attorneys.* Any citizen of the United States who is an attorney and who fulfills the requirements of this part may be registered as a patent attorney to practice before the Office. When appropriate, any

alien who is an attorney, who lawfully resides in the United States, and who fulfills the requirements of this part may be registered as a patent attorney to practice before the Office, *provided:* Registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States and *further provided:* The alien may remain registered only (1) if the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States or (2) if the alien ceases to reside in the United States, the alien is qualified to be registered under paragraph (c) of this section. See also § 10.9(b).

(b) *Agents.* Any citizen of the United States who is not an attorney and who fulfills the requirements of this part may be registered as a patent agent to practice before the Office. When appropriate, any alien who is not an attorney, who lawfully resides in the United States, and who fulfills the requirements of this part may be registered as a patent agent to practice before the Office, *provided:* Registration is not inconsistent with the terms upon which the alien was admitted to, and resides in, the United States, and *further provided:* The alien may remain registered only (1) if the alien continues to lawfully reside in the United States and registration does not become inconsistent with the terms upon which the alien continues to lawfully reside in the United States or (2) if the alien ceases to reside in the United States, the alien is qualified to be registered under paragraph (c) of this section. See also § 10.9(b).

NOTE.—All individuals registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys or not, and such registrations have not been changed.

(c) *Foreigners.* Any foreigner not a resident of the United States who shall file proof to the satisfaction of the Director that he or she is registered and in good standing before the patent office of the country in which he or she resides and practices and who is possessed of the qualifications stated in § 10.7, may be registered as a patent agent to practice before the Office for the limited purpose of presenting and prosecuting patent applications of applicants located in such country, *provided:* The patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States

Patent and Trademark Office. Registration as a patent agent under this paragraph shall continue only during the period that the conditions specified in this paragraph obtain.

[Added 50 FR 5173, Feb. 6, 1985, effective Mar. 8, 1985; paras. (d) & (e) removed 53 FR 38948, Oct. 4, 1988, effective Nov. 4, 1988]

§ 10.7 Requirements for registration.

(a) No individual will be registered to practice before the Office unless he or she shall:

(1) Apply to the Commissioner in writing on a form supplied by the Director and furnish all requested information and material and

(2) Establish to the satisfaction of the Director that he or she is:

(i) Of good moral character and repute;
(ii) Possessed of the legal, scientific, and technical qualifications necessary to enable him or her to render applicants valuable service; and

(iii) Is otherwise competent to advise and assist applicants for patents in the presentation and prosecution of their applications before the Office.

(b) In order that the Director may determine whether an individual seeking to have his or her name placed upon the register has the qualifications specified in paragraph (a) of this section, satisfactory proof of good moral character and repute and of sufficient basic training in scientific and technical matters must be submitted to the Director. Except as provided in this paragraph, each applicant for registration must take and pass an examination which is held from time to time. Each application for admission to take the examination for registration must be accompanied by the fee set forth in § 1.21(a)(1) of this subchapter. The taking of an examination may be waived in the case of any individual who has actively served for at least four years in the patent examining corps of the Office. The examination will not be administered as a mere academic exercise.

(c) Within two months from the date an applicant is notified that he or she failed an examination, the applicant may request regrading of the examination upon payment of the fee set forth in § 1.21(a)(6). Any applicant requesting regrading shall particularly point out the errors which the applicant believed occurred in the grading of his or her examination.

[Added 50 FR 5174, Feb. 6, 1985, effective Mar. 8, 1985]

§ 10.8 Oath and registration fee.

Before an individual may have his or her name entered on the register of attorneys and agents, the individual must, after his or her application is approved, subscribe and swear to an oath or make a declaration prescribed by the Commissioner and pay the registration fee set forth in § 1.21(a)(2) of this subchapter.

[Added 50 FR 5174, Feb. 6, 1985, effective Mar. 8, 1985]

§ 10.9 Limited recognition in patent cases.

(a) Any individual not registered under § 10.6 may, upon a showing of circumstances which render it necessary or justifiable, be given limited recognition by the Director to prosecute as attorney or agent a specified application or specified applications, but limited recognition under this paragraph shall not extend further than the application or applications specified.

(b) When registration of a resident alien under paragraphs (a) or (b) of § 10.6 is not appropriate, the resident alien may be given limited recognition as may be appropriate under paragraph (a) of this section.

(c) An individual not registered under § 10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: The individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455) or before the International Bureau when acting as Receiving Office pursuant to PCT Rules 83.1^{bis} and 90.1.

[Added 50 FR 5174, Feb. 6, 1985, effective Mar. 8, 1985; para. (c) added, 58 FR 4335, Jan. 14, 1993, effective May 1, 1993; para. (c) amended, 60 FR 21438, May 2, 1995, effective June 1, 1995]

§ 10.10 Restrictions on practice in patent cases.

(a) Only practitioners who are registered under § 10.6 or individuals given limited recognition under